



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 16, 1998

Mr. Mario R. Gutierrez
Assistant City Attorney
City of San Marcos
City Hall
630 East Hopkins
San Marcos, Texas 78666

OR98-2209

Dear Mr. Gutierrez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118033.

The City of San Marcos (the "city") received a request for a copy of "city records" pertaining to a specific property previously the subject of litigation and settlement. You claim that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

You received the request for information on April 17, 1998. You did not seek a decision from this office until June 24, 1998. Consequently, you have not met your statutory burden. Gov't Code 552.301.¹ The requested information is therefore presumed public.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/NC

Ref.: ID# 118033

cc: Mr. Kurt Prunty
CalTex
3312 Barker Hollow Pass
Austin, Texas 78739

Ms. Sandy LaBoarde
CalTex
3312 Barker Hollow Pass
Austin, Texas 78739

¹Generally, section 552.103 does not provide a compelling demonstration to overcome the presumption of openness. See Open Records Decision Nos. 586 (1991), 551 (1990), 473 (1987), 470 (1987).